

REMARKS

Claims 23, 28, 48-53, 55-57, 59-62, and 64-67 are pending. The rejections of these claims are addressed in detail below.

Formalities

Applicants enclose copies of non-patent references cited in the information disclosure statements mailed May 9, 2002 and February 11, 2003.

Rejection under 35 U.S.C. § 112, first paragraph

Claims 23, 28, 48-53, 55-57, 59-62, and 64-67 are rejected as lacking an adequate written description. The claims have been amended to delete the terms “about” and “about from about” thereby rendering this rejection moot.

Obviousness-Type Double Patenting

Claims 23, 28, 48, 55, 57, 59 and 64 are rejected for obviousness-type double patenting as being unpatentable over claims 1, 6-8 and 14 of Collins et al., US Patent No. 6,248,714 (“the ‘714 patent”) in view of Cookson, US Patent No. 6,387,615 (“the ‘615 patent”).

As amended, claims 23 and 28, from which the other rejected claims depend, are now directed to the treatment of an allergen-induced airway hyper responsiveness, which is neither mentioned nor suggested in the ‘714 patent. The ‘615 patent fails to teach that the inhibition of IL-13 binding to IL-13R is useful in any setting and therefore, does not cure the deficiencies in the ‘714 patent. Thus, one skilled in the art, reading the ‘714 patent and ‘615 patent, either alone or in combination, would not be motivated to treat an allergen-induced airway as is claimed. In view of this amendment, this rejection should now be withdrawn.

Applicants: Collins et al.
U.S.S.N. 09/868,123

Rejections under 35 USC § 102

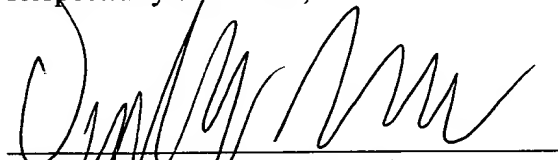
Claims 23, 28, 48-53, 55-57, 29-62 and 64-67 are rejected under 35 USC § 102(b) as being anticipated by Collins et al., US Patent No. 5, 710, 023 ("the '023 patent"). In applying this rejection, the Examiner asserts that the '023 patent teaches using the claimed polypeptide for treating asthma. As discussed above, the claims are now directed to the treatment of an allergen-induced airway hyper responsiveness, which is not disclosed in the '023 patent. This rejection should therefore be withdrawn.

Claims 23, 28, 48-53, 55-57, 59-62, and 64-67 are rejected under 35 USC § 102(e) as being anticipated by the '714 patent, US Patent No. 6,268,480, and US Patent No. 6,214,559. Because none of these patents teach the treatment of an allergen-induced airway hyper responsiveness as is now claimed, this rejection should now be withdrawn.

Applicants submit that the application is in condition for allowance, and such action is respectfully requested.

Please charge any payments or credit any overpayments of the same to Deposit Account No. 50-0311, reference 22058-514 NATL.

Respectfully submitted,



Ivor R. Elfin, Reg. No. 39,529
David E. Johnson, Reg. No. 41,874
Attorneys for Applicants
c/o MINTZ LEVIN
Tel.: (617) 542-6000
Fax: (617) 542-2241
Customer No. 30623

Dated: August 22, 2006